

HOUSE BILL NO. 318

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

**BY REPRESENTATIVES MCGUIRE, HOLM AND HAWKER, Stoltze, Gatto, Wilson, Kohring, LeDoux,
Dahlstrom, Kelly, Anderson, Olson, Lynn, Elkins**

Introduced: 1/9/06

Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act limiting the exercise of eminent domain."**

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 * **Section 1.** AS 09.55.240(a) is amended to read:

4 (a) **Except as provided in (d) of this section, the** [THE] right of eminent
5 domain may be exercised for the following public uses:

6 (1) all public uses authorized by the government of the United States;

7 (2) public buildings and grounds for the use of the state and all other
8 public uses authorized by the legislature of the state;

9 (3) public buildings and grounds for the use of an organized or
10 unorganized borough, city, town, village, school district, or other municipal division,
11 whether incorporated or unincorporated; canals, aqueducts, flumes, ditches, or pipes
12 conducting water, heat, or gas for the use of the inhabitants of an organized or
13 unorganized borough, city, town, or other municipal division, whether incorporated or
14 unincorporated; raising the banks of streams, removing obstructions from them, and
15 widening, deepening, or straightening their channels; **and** roads, streets, and alleys,

1 and all other public uses for the benefit of an organized or unorganized borough, city,
 2 town, or other municipal division whether incorporated or unincorporated, or its
 3 inhabitants, which may be authorized by the legislature;

4 (4) wharves, docks, piers, chutes, booms, ferries, bridges of all kinds,
 5 private roads, plant and turnpike roads, railroads, canals, ditches, flumes, aqueducts,
 6 and pipes for public transportation, supplying mines and farming neighborhoods with
 7 water, and draining and reclaiming land, and for floating logs and lumber on streams
 8 not navigable, and sites for reservoirs necessary for collecting and storing water;

9 (5) roads, tunnels, ditches, flumes, pipes, and dumping places for
 10 working mines; also outlets, natural or otherwise, for the flow, deposit, or conduct of
 11 tailings or refuse matter from mines; also an occupancy in common by the owners or
 12 possessors of different mines of any place for the flow, deposit, or conduct of tailings
 13 or refuse matter from their several mines, and sites for reservoirs necessary for
 14 collecting and storing water;

15 (6) private roads leading from highways to residences, mines, or farms;

16 (7) telephone lines;

17 (8) telegraph lines;

18 (9) sewerage of an organized or unorganized borough, city, town,
 19 village, or other municipal division, whether incorporated or unincorporated, or a
 20 subdivision of it, or of a settlement consisting of not less than 10 families, or of public
 21 buildings belonging to the state or to a college or university;

22 (10) tramway lines;

23 (11) electric power lines;

24 (12) for the location of pipelines for gathering, transmitting,
 25 transporting, storing, or delivering natural or artificial gas or oil or any liquid or
 26 gaseous hydrocarbons, including, but not limited to, pumping stations, terminals,
 27 storage tanks, or reservoirs, and related installations.

28 * **Sec. 2.** AS 09.55.240 is amended by adding a new subsection to read:

29 (d) Notwithstanding (a) of this section,

30 (1) the right of eminent domain may not be exercised for the purpose
 31 of promoting economic development or to acquire land as part of an economic

1 development project; or

2 (2) if the property that is the subject of the action is the primary
3 residence of the owner of the property, the right of eminent domain may not be
4 exercised for the purpose of developing a recreational facility or project, including a
5 park, natural resource use area, trail or pedestrian pathway, greenbelt, access to a
6 wilderness area, amusement park, small boat facility, personal use fishery, sports
7 facility, playground, or infrastructure or other facility related to or in support of an
8 indoor or outdoor recreational facility or project.

9 * **Sec. 3.** AS 29.35.030(a) is amended to read:

10 (a) **Except as provided in (c) of this section, a** [A] municipality may, only
11 within its boundaries, exercise the powers of eminent domain and declaration of taking
12 in the performance of a power or function of the municipality under the procedures set
13 out in AS 09.55.250 - 09.55.460. In the case of a second class city, the exercise of the
14 power of eminent domain or declaration of taking must be by ordinance that is
15 submitted to the voters at the next general election or at a special election called for
16 that purpose. A majority of the votes on the question is required for approval of the
17 ordinance.

18 * **Sec. 4.** AS 29.35.030 is amended by adding a new subsection to read:

19 (c) A municipality may not exercise the powers of eminent domain

20 (1) to promote economic development or to acquire land as part of an
21 economic development project; or

22 (2) if the property that is the subject of the action is the primary
23 residence of the owner of the property, to develop an indoor or outdoor recreational
24 facility or project, including a park, natural resource use area, trail or pedestrian
25 pathway, greenbelt, access to a wilderness area, amusement park, small boat facility,
26 personal use fishery, sports facility, playground, or infrastructure or other facility
27 related to or in support of an indoor or outdoor recreational facility or project.